

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

GARY GIBSON, JR. and SHAWNA
GIBSON, husband and wife,

Plaintiffs,

v.

BRIESON JENSEN and FARMERS
CO-OPERATIVE,

Defendants.

CASE NO.: 8:16-cv-296

**PLAINTIFFS' DAUBERT MOTION TO
EXCLUDE EXPERT OPINION
TESTIMONY OF DEFENDANTS'
EXPERTS ARNOLD WHEAT
AND DAVID LOHF**

COME NOW, the Plaintiffs, Gary Gibson, Jr. and Shawna Gibson, husband and wife, by and through their undersigned counsel, and pursuant to Fed. R. Evid. 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), respectfully move the Court for an Order excluding the testimony of Defendants' retained experts Arnold Wheat and David Lohf. The Court should exclude Mr. Wheat and Mr. Lohf's human factor opinions, including, but not limited to, all opinions that Mr. Gibson was inattentive, did not timely detect the RoGator, should have more quickly detected the RoGator, did not implement minimum competency driving skills that could have avoided the accident, did not maintain control of his vehicle, and should have taken different maneuvers after detecting the RoGator.

In support of this Motion, Plaintiffs file a Brief and Index of Evidence contemporaneously herewith and state that (1) neither Mr. Wheat nor Mr. Lohf is qualified to opine as to the application of human factor analysis; (2) Mr. Wheat's and Mr. Lohf's human factor conclusions invade the province of the jury; and (3) Mr. Wheat's and Mr. Lohf's human factor conclusions are speculative, based on unreliable methodologies, and are not based on sufficient facts and data.

WHEREFORE, the Plaintiffs, Gary Gibson, Jr. and Shawna Gibson, husband and wife, respectfully request that the Court enter an Order precluding, in whole or in part, Arnold Wheat or David Lohf from offering expert opinion testimony in the trial of this matter.

DATED this 14th day of July, 2017.

GARY GIBSON, JR. and SHAWNA
GIBSON, husband and wife, Plaintiffs.

BY: /s/ Alexander D. Boyd
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court for the United States District Court for the District Court of Nebraska using the CM/ECF system this 14th day of July, 2017, which system sent notification of such filing to counsel of record.

/s/ Alexander D. Boyd

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